

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No. 08/898,853

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conch.
layer is formed of a thermoplastic or rubber based material. The outer cover layer has a Shore D hardness of up to 53 degrees and lower than that of the outer cover layer. The ball's carry is comparable to conventional solid golf balls and spin receptivity is approximate to wound golf balls while the ball is durable and offers pleasant feel.

REMARKS

This response follows an Office Action of May 29, 1998 rejecting claims 1-12. The petition and fee associated with a two-month extension of time is attached herewith. The Applicant notes with appreciation that the Examiner has acknowledged receipt of the priority document in the parent case. This has now issued as U.S. Patent No. 5,688,595.

Pursuant to the Examiner's request, Fig. 2 has been amended to include the detail required by the Examiner. Additionally, the Abstract has been amended in a similar sense.

The Terminal Disclaimer required by the Examiner over the parent case is attached herewith. Remaining then for consideration is the holding of anticipation based on the references to Sun or Higuchi et al. (5,702,311). These rejections are respectfully traversed. The Applicant initially notes that the '311 reference

can be overcome by the filing of Applicant's certified priority document in this case to remove the reference as prior art.

Not 3 Applicant is entitled to an effective filing date of June 14, 1995 which is earlier than that of the reference. Nevertheless, it is believed that this step is not required because Applicant's claims are clearly distinguishable over the disclosure in Higuchi et al.

Considering then that reference, Higuchi et al. discloses a golf ball in which the Examiner considers layer 2b as "an inner layer" as "broadly claimed". The Examiner also holds that Higuchi et al. '311 in claim 10 "expressly defines the same parameters recited in Applicant's claim 1". These holdings are respectfully traversed. First, with respect to the contention that Higuchi contains claims which are the same as Applicant's claim 1, Higuchi's et al. claim 10 depends on claim 8 which ultimately depends on claim 1. Claim 1 requires the golf ball have a certain specific gravity and a certain distortion. None of the Applicant's claims define those parameters, but does not exclude those parameters. Higuchi et al. then defines the golf ball having a solid core having two layers and a cover over that solid core. The cover is defined as having a Shore D hardness of at least 50 while here, Applicant's outer cover has a Shore D hardness of 40 to 60.

Moreover, the "inner layer" of claim 10 of the '311 reference refers to the inner layer of the intermediate layer of claim 8.

while the remaining references deal with the outer intermediate layer. Claim 10 thus deals with the intermediate layer which is the intermediate layer of the core. In essence then, claim 8 defines a core having three layers, an innermost core and a intermediate layer having inner and outer layers. The subject matter of Higuchi et al. thus is completely distinguishable from Applicant claims.

Specifically, Higuchi et al. clearly defines the layers 2a and 2b as the inner and outer intermediate layers both of which form a portion of the core. The cover is element 3. Higuchi et al. thus discloses and clearly defines a difference between the cover 3 and the intermediate layer which is a part of the core. See for example, col. 2, lines 35-37.

Higuchi et al. considered end-to-end does not in any way disclose a multiple cover. Note for example col. 3, lines 19-33 and col. 4, lines 21-31. The same is true with respect to each of the examples.

In contrast, Applicant defines in claim 1 "a cover enclosing the core and consisting of inner and outer cover layers ---". The outer cover layer has a specific Shore D hardness while the inner cover layer has a hardness limit with a requirement that it in all cases be lower than the hardness of the outer cover layer.

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Not so
At most, the '311 reference discloses that the cover should have a Shore D hardness of at least 50. Given the fact that the cover is a single layer the remaining criteria of claim 1 can not be satisfied. Higuchi et al. therefore fails to anticipate claim 1.

The same is true with respect to independent claims 5 and 9. Those same requirements of the same cover having multiple layers and a specific relationship of hardness are disclosed and claimed. Higuchi et al. does not anticipate any of those claims.

10 Sun is no more pertinent. As previously noted, this invention requires a two layer cover with the outer cover having a hardness of 40-60 measured on Shore D and the inner cover having a hardness of 53 on the same scale. The inner cover has a hardness lower than that of the outer cover layer. One of the features of this invention is that a soft outer cover layer is formed on an even softer inner cover layer. Applicant examples demonstrate the importance of this characteristic of the invention in terms of feel and spin performance.

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Additionally, Applicant requires in these claims that the core comprise of at least two layers and thus this invention is a so-called four piece golf ball. Again, the advantages of having a two piece core and a two piece cover are identified in the comparative data.

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Sun, while defining a multiple piece golf ball is not germane to Applicant's invention. First, the inner most core is comprised of a substantially incompressible material. The intermediate core is formed of a Carbonaceous material. The third section is in essence an outer core and not a part of the cover. Reference is made to col. 3, beginning at line 23. Only element 14 is defined as the cover. Nevertheless, the third layer is made of an elastomer.

Thus, the choice of materials of this reference with respect to the formation of the core are substantially different from that of the Applicant's as defined in the claims. The Examiner should note the choice of materials are for the innermost layer 11 as identified in col. 3, lines 1 and 2. Moreover, the Carbonaceous material is defined as reinforced carbon graphite for the intermediate core 12.

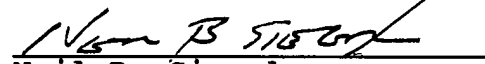
Applicant's claimed invention is materially different. The inner sphere is not formed of an incompressible material but rather one that is compressible such as a rubber based polybutadiene. Moreover, the surrounding layer is a thermoplastic resin or rubber based material which is certainly not a Carbonaceous material as claimed. Sun is thus distinctly different from Applicant's invention. Both in terms of choice of materials and the fundamental construction of the golf ball.

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The Applicant therefore respectfully contends that upon reexamination and reconsideration, this application should be allowed.

Should the Examiner have any questions he is invited to contact the undersigned attorney of record at the local exchange listed below.

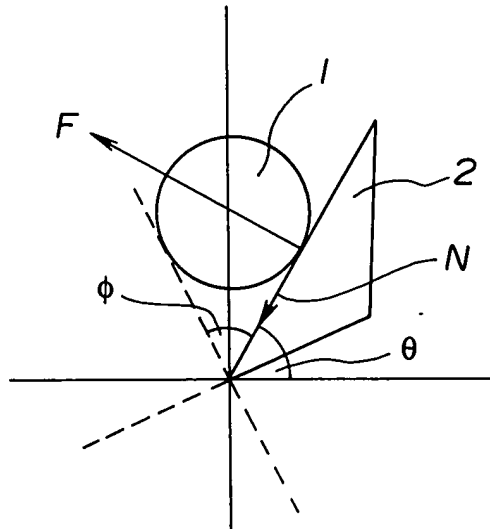
Respectfully submitted,


Neil B. Siegel
Reg. No. 25,200

SUGHRUE, MION, ZINN, MACPEAK
& SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3202
Phone: (202) 293-7060
FAX: (202) 293-7860

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FIG.1



Not
approved
LGM

FIG.2

